

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

VINCENT JONES #653127

§

v.

§ CIVIL ACTION NO. 6:05cv472

DOUGLAS DRETKE, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Vincent Jones, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Jones complained about a rejection of a publication he received called Stuff. This magazine was rejected because it contained a detailed description of the manufacture of a tattooing machine. After review of the complaint, the Magistrate Judge issued a Report on December 30, 2005, recommending that the lawsuit be dismissed. The Magistrate Judge cited the relevant Fifth Circuit caselaw, specifically Thompson v. Patteson, 985 F.2d 202 (5th Cir. 1993) in determining that the rejection of this magazine did not violate the Constitution. Jones received a copy of the Magistrate Judge's Report on January 4, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the Plaintiff's pleadings, the Report of the Magistrate Judge, and all documents and records in the case. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. The Court also notes that Jones did not pay the initial partial filing fee, as required by 28 U.S.C. §1915(b), and his lawsuit is also amenable to dismissal for failure to prosecute or to obey an order of the Court. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous. It is further

ORDERED that any and all motions which may be pending in this lawsuit are hereby DENIED.

So ORDERED and SIGNED this 23rd day of February, 2006.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "L" at the beginning.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**